IN THE HIGH COURT OF JUDICAUTRE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4159 OF 1998

Smt. Jayashree Sunil Chavan ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

Mr. A.M. Joshi for Petitioner.

Mr. C.R. Sonawane, A.G.P. for Respondent Nos.

Mr. P.B. Naiknaware for Respondent Nos. 6 and 7.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 10, 2005

P.C.

1. The Petitioner herein was appointed as a teacher in the school run by respondent No. 6. Her qualification at the time of appointment were B.A. B.Ed. From 6.10.1993 the institution started getting grant in aid and approval to the appointment of Petitioner was given by A.O. On 5.11.1997 the Government of Maharashtra issued circular directing un-trained teachers, to draw in the lower scale till they are trained. In the meantime, the issue arose whether the teachers who had B.Ed. qualification could be considered as trained teacher for the primary school. As there was conflict between the Division Benches of this court, a Full Bench of this court was constituted which by its judgement dated 5.5.2000 in Writ Petition No. 4159 of 1998 held that D. Ed. is minimum qualification for teaching the students in

the primary schools and the B. Ed. qualification cannot be considered as equivalent thereto.

2. The State of Maharashtra had however, issued G.R. dated 14.11.1979 wherein it was provided that primary schools from 1st to 7th standard would be entitled to appoint one Assistant teachers who possesses B.A. B. Ed. qualification and teaches in the schools imparting education from 5th to 7th standard as trained teacher. This issue came up for consideration before the court in Writ Petition No. 4632 of 1999 to which one of us (Rebello,J.) was a party. This court held that in schools having standard 1 to 7, it is permissible to appoint one teacher having B.A. B.Sc. with B.Ed. qualification in terms of the Government Circular as interpreted by this court. As such teacher, who was appointed and possesses B.A., B.Sc. and also B.Ed. should be entitled to be treated as trained teacher and be continued tobe paid the salary as trained teacher. In other words, one teacher having qualification of B.A. B.Sc and training qualification could be appointed.

3. The matter was adjourned on the last occasion to enable the respondent Nos. 6 and 7 to inform the court as to whether there was any other teacher senior to the teacher having said qualification and

who will be entitled to by virtue of that to draw scale of Assistant Teacher. The learned counsel appearing for respondent Nos. 6 and 7 states that inspite of sending telegrams to Respondent Nos. 6 and 7 he has received no intimation. We therefore, proceed on the footing that averments by the Petitioner that she alone is the person entitled to

and are eligible has to be accepted.

. In the light of that, petition will have to be allowed in terms of Prayer Clauses (b) and (c). We further direct that if the pay scales have since been revised, it will be the revised scale to which the petitioner will be entitled to. It is further directed to pay arrears, if any. Respondent Nos. 6 and 7 are directed to forward the pay bills on receipt of the judgement and within the period of eight weeks thereafter to the competent authority. The competent authority on receipt of the said papers from the management to process and dispose of the said application within the period of eight weeks thereafter. Rule made absolute accordingly.

No order as to costs.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)